

REMARKS

Claims 1-5, 9-12 and 17 have been examined. Claims 1, 9 and 17 have been rejected under 35 U.S.C. § 102(b), and claims 2-5 have been rejected under 35 U.S.C. § 103(a). Also, the Examiner continues to maintain that claims 10-12 contain allowable subject matter.

II. Rejection under 35 U.S.C. § 102(b) over U.S. Patent Appl. Publ. 2002/0122746 to Yamamori et al. (“Yamamori”)

Claims 1, 9 and 17 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Yamamori.

A. Claim 1

Claim 1 recites, “...a mouth guide, adapted to be disposed in front of the mouth of the living body so as to define a space communicated with the airway passage, the mouth guide being supported on the airway case so as to be pivotable about an axis that extends substantially parallel to the optical axis.”

The claimed mouth guide was discussed during an Interview on May 28, 2008 between the Examiner, the Examiner’s Supervisor, the undersigned and Attorney Brian W. Hannon. Specifically, amendments for clarifying the pivoting motion of the mouth guide were discussed. As set forth in amended claim 1, the mouth guide is pivotable about an axis that extends substantially parallel to the optical axis. Since the pivoting axis of hook 41c of Yamamori is *perpendicular* to the optical axis (See Fig. 14), Applicant submits that claim 1 is patentable over the cited reference. After reviewing the proposed claim amendments, the Examiner and the

Examiner's Supervisor indicated that the amendment of claim 1 should overcome the current rejection of claim 1 (and claim 17), but that further consideration would be necessary.

In view of the above, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claim 1.

B. Claim 9

Applicant submits that claim 9 is patentable at least by virtue of its dependency upon amended claim 1.

C. Claim 17

Since claim 17 recites features that are analogous to the features recited in claim 1, Applicant submits that claim 17 is patentable for at least analogous reasons as claim 1.

III. Rejection under 35 U.S.C. § 103(a) over Yamamori in view of U.S. Patent Appl. Publ. 2004/0003816 to Cannon ("Cannon")

Claims 2, 4 and 5 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yamamori in view of Cannon. Since Cannon fails to cure the deficient teachings of Yamamori, in regard to amended claim 1, Applicant submits that claims 2, 4 and 5 are patentable at least by virtue of their dependency.

IV. Rejection under 35 U.S.C. § 103(a) over Yamamori in view of Cannon in further view of U.S. Patent No. 6,739,218 to Yang ("Yang")

Claim 3 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yamamori in view of Cannon and further in view of Yang. Since Yang and Cannon fail to cure

the deficient teachings of Yamamori, in regard to amended claim 1, Applicant submits that claim 3 is patentable at least by virtue of its dependency.

V. Allowable Subject Matter

As set forth above, the Examiner has indicated that claims 10-12 contain allowable subject matter.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

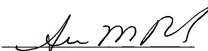
SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

65565

CUSTOMER NUMBER

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Allison M. Tulino
Registration No. 48,294